

ORIGINAL



TOWN OF ASHBURNHAM
ANNUAL TOWN MEETING
WARRANT ARTICLES

*Tuesday, May 7, 2019
7:00 p.m.
Oakmont Regional High School Auditorium
9 Oakmont Drive
Ashburnham, MA 01430*

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6 Admin - Authorize Cushing Trust Fund Transfer	1,000
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**ANNUAL TOWN MEETING WARRANT
TOWN OF ASHBURNHAM
COMMONWEALTH OF MASSACHUSETTS**

WORCESTER, SS

TO THE CONSTABLES OF THE TOWN OF ASHBURNHAM, IN WORCESTER COUNTY,
GREETINGS:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, YOU ARE HEREBY
DIRECTED TO NOTIFY AND WARN THE INHABITANTS OF SAID TOWN QUALIFIED
TO VOTE IN ELECTIONS AND TOWN AFFAIRS TO MEET AT OAKMONT REGIONAL
HIGH SCHOOL AUDITORIUM, 9 OAKMONT DRIVE, ASHBURNHAM, MA ON

**TUESDAY, THE SEVENTH OF MAY, 2019
BEGINNING AT 7:00 P.M.**

THEN AND THERE TO VOTE ON THE FOLLOWING ARTICLES AND RESOLUTIONS:

ARTICLE 1

To accept the reports of several town officers and all outstanding committees, or act in
relation thereto. *(Requested by the Board of Selectmen)*

Brief Explanation: *Annual article to accept the reports of Town officials and
boards.*

ARTICLE 2

To see if the Town will vote to authorize a PILOT payment based on the annual kilowatt
sales of the Light Department multiplied by a per kilowatt value from the Municipal Light
Plant Funds, to the town treasury, as authorized by its Light Board in accordance with
Chapter 164 of the General Laws of the Commonwealth, or act in relation thereto.
(Requested by the Municipal Light Department)

Brief Explanation: *The PILOT agreement is tied to the Pilot payment in the
annual kilowatt sales of the light department multiplied by a per kilowatt value.
This was put in place for FY13 to ease the calculation and establish a standard
process for future years. In FY20 it is estimated we will receive \$69,275.*

ARTICLE 3

To see if the Town will vote to authorize the Town Treasurer/Collector, with the approval
of the Board of Selectmen, to borrow money from time-to-time in anticipation of the
revenue of the financial year beginning July 1, 2019, in accordance with the provisions of
the Massachusetts General Laws, Chapter 44, Section 4, and to issue a note or notes as may
be given for a period of less than one year in accordance with the Massachusetts General
Laws, Chapter 44, Section 17, or act in relation thereto. *(Requested by the Town
Treasurer/Collector)*

Brief Explanation: *Allows the Treasurer to temporarily borrow operating funds
for the Town to ensure payments are done in a timely manner. The Treasurer can
only borrow that amount which is expected to be received.*

ARTICLE 4

To see if the Town will vote to authorize the Town Administrator to enter into a contract or contracts with the Massachusetts Highway Department for the construction and maintenance of town roads in conformance with the Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *This article allows the Town Administrator to contract with the State to do road repairs in Ashburnham. This article does not approve any specific project/road, but rather provides the delegation of authority to allow the TA to enter into a contract with the State.*

ARTICLE 5

To see if the Town will vote to appropriate all funds which become available in the Fiscal Year 2020 from the Commonwealth of Massachusetts Department of Highways, Chapter 90 Bond Issue proceeds, to be used by the DPW for the repair and maintenance of town roads in conformance with Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *This annual article allows the Town to expend its Chapter 90 state funds. For fiscal year 2020 the amount of those funds is estimated to be \$341,939.*

ARTICLE 6

To see if the Town will vote to authorize the transfer of trust fund income not to exceed \$1,000 from the Cushing Academy Trust Fund to pay for the fiscal year 2020 secondary school expenses, or act in relation thereto. *(Requested by Town Administrator)*

Brief Explanation: *This is the transfer of funds (interest) from the Cushing Academy Trust fund (\$116,000). When the Town students were removed from Cushing Academy it was required to deposit \$114,000 into the Town's funds and the interest earned on these monies were to be used to offset the cost to the Town for secondary education in public schools.*

ARTICLE 7

To see if the Town will vote to transfer \$21,732 from special assessments Title V Receipts Account (septic system loan program) to pay principal and interest due on notes payable to the Water Pollution Abatement Trust, or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *The Town established a Septic System Loan Program where the cost was established as betterments. Each year charges are levied on the tax bills, and the revenue required is reserved or appropriated. We then must transfer monies required to cover the loan payment.*

ARTICLE 8

To see if the Town will vote to transfer a sum of money not to exceed \$2,500 from the Waterways Improvement Fund for the purpose of waterway improvement, maintenance, and safety, or act in relation thereto. *(Requested by the Ashburnham Lakes Coalition)*

Brief Explanation: *The Waterways Improvement Fund is funded by a portion of the boat excise tax to be used for waterways maintenance, access, law enforcement or fire prevention. The Ashburnham Lakes Coalition has been given the charge of recommending the use of these monies to the Board of Selectmen who then approve or disapprove expenditures. In the past these monies have been used for Police boat patrols, lifesaving courses, purchase of a Police boat and other water related expenditures.*

ARTICLE 9

To see what spending limits the Town will establish for revolving accounts established pursuant to Chapter 44, section 53E½ of the Massachusetts General Laws and Ashburnham General Bylaws for Fiscal Year 2020; or take any other action related thereto. *(Requested by the Town Administrator)*

<u>Revolving Fund</u>	<u>Spending Limit</u>
RAD Program	\$15,000
Fire Alarm & Communications	\$20,000
Economic Development Banner Program	\$10,000

Brief Explanation: *Now that the revolving funds are established, the limits to what can be collected in each fund and expended is an annual requirement.*

ARTICLE 10

To see if the Town will vote to raise and appropriate a sum **\$807,967** to operate the Water Department for the fiscal year beginning July 1, 2019, or act in relation thereto. *(Requested by the Town Administrator)*

Salaries	82,944
Expenses	112,063
Water Filtration Plant	159,886
Debt Service	267,677
Indirect Costs	185,397
	<hr/>
	\$ 807,967

Brief Explanation: *The FY20 expenses increased by 2.40% over FY19. Indirect costs increased.*

ARTICLE 11

To see if the Town will vote to raise and appropriate a sum **\$772,960** to operate the Sewer Department for fiscal year beginning July 1, 2019, or act in relation thereto. *(Requested by the Town Administrator)*

Salaries	44,685
Expenses	104,447
Service Charges Gardner	460,000
Debt Service	-
Indirect Costs	163,828
	<hr/>
	\$ 772,960

Brief Explanation: *The FY19 Sewer Budget is 7.55% decrease over FY19. We accurately calculated indirect costs for FY20, and the sewer debt has dropped off of the books, reducing the baseline.*

ARTICLE 12 FY20 ANNUAL OPERATING BUDGET

To see if the Town will vote to raise and appropriate such sum **\$17,286,800** as may be necessary to defray the expenses of the Town for the fiscal year commencing July 1, 2019 and to set the salaries of elected officials; or act in relation thereto. *(Requested by the Board of Selectmen and Advisory Board)*

Line	Department	Adjusted Budget FY19	Budget FY20
1	Moderator	100	100
2	Board of Selectmen	8,085	8,122
3	Town Administrator	278,019	244,892
4	Advisory Board	500	500
5	Reserve Fund	50,000	50,000
6	Town Accountant	73,450	85,040
7	Board of Assessors	115,026	114,625
8	Treasurer/Collector	164,274	151,713
9	Tax Title	-	19,900
10	IT Expense	202,880	184,227
11	Town Clerk	55,774	54,528
12	Conservation Commission	25,945	26,427
13	Open Space Recreation Committee	-	650
14	Inspectional Services	209,678	169,138
15	Town Buildings	167,340	202,679
16	Non-Departmental	144,005	125,355
17	Police	1,424,670	1,536,009
18	Fire	771,214	783,192
19	Emergency Dispatch	298,315	307,592
20	Animal Control	38,800	34,010
21	Monty Tech	507,292	510,715
22	Ash-West Reg School District	7,537,657	7,726,707
23	Highway	961,648	1,010,805
24	Snow & Ice	230,000	230,000
25	Board of Health	21,386	22,455
26	Council on Aging	25,246	26,914
27	Veterans' Services	99,000	79,000
28	Agricultural Commission	300	1,000
29	Library	217,974	227,199
30	Parks & Recreation Committee	24,700	16,500
31	Historical Commission	2,000	250
32	Debt Service	1,818,263	1,786,744
33	Employee Insurance Benefits	1,461,332	1,549,812
Subtotal		16,934,873	17,286,800

Setting of Elected Salaries under Article 12:

- a. Town Moderator: \$100
- b. Board of Selectmen: Chairman - \$1,300; Clerk - \$1,100; Member - \$1,100

Brief Explanation: Annual operating budget article as noted represents a 2.04% increase over the adjusted FY19 budget. The FY20 revenue covers this article as well as Article 13 & 14. Revenues include the following:

REVENUES	FY20- EST
Property Tax Levy	
Prior Yr Levy Limit	12,516,653
2 1/2 % Increase	312,916
New Growth	100,000
Debt Service Override-School	1,121,944
Debt Service Override-Municipal	559,395
Unused Levy Limit	3,602
less overlay	(150,000)
Levy Total	14,464,510
State Aid	1,016,849
Local Receipts Revenue	1,712,473
Total Revenue:	17,193,832

ARTICLE 13

To see if the Town will vote to raise and appropriate from available funds the sum of **\$90,000** to transfer to Operating Stabilization Fund or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *This article would allow the Town to prioritize the replenish of a large portion of the funds that were borrowed from operating stabilization funds in the Fall when Free Cash was not available. The certification of FY18 free cash is still underway and is expected by the end of the fiscal year.*

ARTICLE 14

To see if the Town will vote to raise and appropriate from available funds the sum of **\$157,444** to fund the recommendation of the Capital Planning Committee to include the following:

Line	Item	Amount
1	Volvo Loader 2nd of 5 year payments	39,999
2	SCBA Gear- 2nd of 3 year payments	71,500
3	Cardiac Care Unit	45,945
		<hr/>
		\$ 157,444

or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *The capital article is limited to the required articles, which due to financial commitments and imminent departmental need (Cardiac care unit is no longer under service) need to be addressed at Annual Town Meeting. The cardiac care unit is a pairing of two devices that are critical to the survival of patients suffering from cardiac events, these are a cardiac monitor / defibrillator and an automated CPR device (Lucas Device).*

ARTICLE 15

To see if the Town will vote to accept M.G.L. c. 64N Section 3 and impose a local sales tax upon the sale of recreational marijuana originating within the Town by a vendor at a rate of 3% of the gross receipts of the vendor from the sale of recreational marijuana, marijuana products, and marijuana edibles, said excise to take effect on the first day of the calendar quarter commencing at least thirty days after such vote of Town Meeting; or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *Adoption of this MGL will allow the Town to tax any retail marijuana establishments to pay the Town a 3% tax on all recreational marijuana sales.*

ARTICLE 16

To see if the Town will vote to accept the provisions of Massachusetts General Laws c. 90, § 17C: Establishment of 25-miles-per-hour speed limit in thickly settled areas or business district in a city or town; or act in relation thereto. *(Requested by the Town Administrator)*

Brief Explanation: *Cities and towns have the option to opt-in to MGL c. 90 § 17C, reducing the statutory speed limit from 30 mph to 25 mph in thickly settled or business districts. Section 17C defines a thickly settled or business district as "the territory contiguous to any way which is built up with structures devoted to business, or the territory contiguous to any way where dwelling houses are situated at such distances as will average less than two hundred feet between them for a distance of a quarter of a mile or over." This option was brought to the attention of the Board of Selectmen through the Police Chief.*

ARTICLE 17

To see if the town will vote to amend the general by-laws of Ashburnham by deleting from Chapter XXVII: Personnel, Section 5: Rules of Conduct, 5.30 Sexual Harassment Policy and replacing it with a new section as follows:

5.30 Discrimination and Harassment Prevention

The Town of Ashburnham depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity.

The Town shall establish policies prohibiting sexual harassment and all other forms of discrimination and unlawful harassment and shall provide procedures by which inappropriate conduct will be addressed by the Town.

The Town Administrator shall be authorized to promulgate Sexual Harassment, Protected Class Harassment and Anti-Bullying policies and procedures, subject to any applicable state and federal law.

, or act in relation thereto. *(Requested by the Town Administrator).*

Brief Explanation: *The Town's current Sexual Harassment Policy bylaw is no longer in compliance with Massachusetts General Laws and fails to cover all forms of harassment and all protected groups. Labor Counsel's recommendation is to replace the bylaw with a statement and then provide authority for the Town Administrator to promulgate relevant policies. Keeping the policies out of the bylaw will allow for time-to-time updates and current legal compliance.*

ARTICLE 18

To see if the town will vote to amend the general by-laws of Ashburnham by deleting from Chapter XXVII: Personnel, Section 9: Leaves of Absence, 9.70 Maternity Leave and 9.71 Paternity Leave and replacing them both with a new section as follows:

9.70 Parental Leave

In accordance with Massachusetts General Laws Chapter 149 Section 105D, full-time employees of the Town who meet the eligibility requirements, will be entitled to Parental Leave for the birth, adoption or placement of a child, as provided in the Town's Parental Leave Policy.

The Town Administrator shall be authorized to promulgate a Parental Leave Policy and Procedures, subject to M.G.L. c. 149, §105D.

, or act in relation thereto. (*Requested by the Town Administrator*).

Brief Explanation: *The Town's current Maternity and Paternity bylaws are no longer in compliance with Massachusetts General Laws and fails provide equitable treatment of all genders and include adoption and placement of a child. Labor Counsel's recommendation is to replace the bylaw with a statement and then provide authority for the Town Administrator to promulgate relevant policies. Keeping the policies out of the bylaw will allow for time-to-time updates and current legal compliance.*

ARTICLE 19

To see if the town will vote to amend the zoning by-laws of Ashburnham by adding a new definition to Section 1. General, 1.5, Definitions as follows:

Half (1/2) Story – As used in Section 4 Dimensional Regulations, 4.2, Table 1, a ½ story is habitable space where floor area does not exceed 75% of the floor area of the story below and where the minimum ceiling height in accordance with the Massachusetts State Building Code does not exceed 50% of the floor area of the story below.

, or act in relation thereto. (*Requested by the Planning Board*).

Brief Explanation: *This article provides a definition for the term "half-story" which had previously not been defined.*

ARTICLE 20

To see if the town will vote to amend the zoning by-laws of Ashburnham by deleting from Section 4. Dimensional Regulations, 4.38 Swimming Pool Fence and replacing it with a new provision as follows:

4.38 Hot Tubs/Swimming Pools. Private outdoor hot tubs and swimming pools shall comply with the International Code Council's *International Residential Code (2009) Chapter 42 and Appendix G: Swimming Pools, Spas and Hot Tubs* and shall have a barrier or a fence, wall, a building wall or combination thereof which completely surrounds the swimming pool and/or hot tub and obstructs access to the pool and/or hot tub. If a portion of the barrier is visible from a public way, it shall be visually impermeable. Outdoor pools exceeding 18 inches in depth shall be protected by an enclosure to comply with the following:

- (a) at least four feet in height from grade to top of fencing;
- (b) vertical openings not to exceed four inches;
- (c) chain link openings not to exceed two inches;
- (d) railings and posts to be on the interior of fencing and must be capable of withstanding a 150- pound load.

Provided that, in the event there is a conflict between this provision and the Massachusetts Building Code, as amended from time to time, the Massachusetts Building Code shall govern.

, or act in relation thereto. (*Requested by the Building Commissioner*)

Brief Explanation: *Outdoor swimming pool fencing are now regulated by the Mass State Building Codes and International Swimming Pool & Spa Codes. This amendment brings our regulation into compliance.*

ARTICLE 21

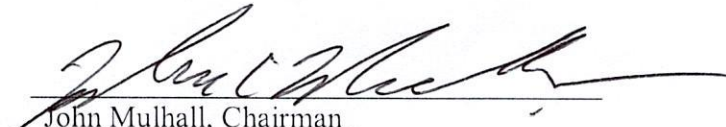
To see if the town will vote to amend the zoning by-laws of Ashburnham by deleting from Section 5. Special Regulations, 5.2 Signs and replacing it with a new provision as set forth in Attachment A, or act in relation thereto. (*Requested by the Planning Board and Ashburnham Economic Development Commission*).

Brief Explanation: *The purpose of these sign regulations are to update, modernize and encourage the effective use of signs as a means of communication in the Town; to maintain and enhance the aesthetic environment while protecting and preserving the character of the Town; to encourage the Town's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; and to minimize the possible adverse effects of signs on nearby public and private property.*

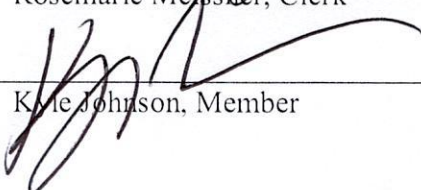
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And you are hereby directed to serve this warrant in accordance with the provisions of Section 3, Chapter II of the Town By-Laws by posting attested copies thereof as therein provided.

Hereof fail not and make due return of this Warrant with your doings thereon, to the Town Clerk on or before the said day and hour of meeting.


John Mulhall, Chairman


Rosemarie Meissner, Clerk


Kyle Johnson, Member

A True Copy, Attest:


Constable

4/23/19
Date

Attachment A– Article 21

5.2 Signs

5.21 Purpose.

Under authority of the General Laws, the Town of Ashburnham adopts this chapter for the regulation and restriction of signs and other outdoor, visual advertising devices on public ways, on private property within public view, in public parks, and in playgrounds. The purpose of these sign regulations are to encourage the effective use of signs as a means of communication in the Town; to maintain and enhance the aesthetic environment of the Town; to encourage the Town's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; and to minimize the possible adverse effect of signs on nearby public and private property.

5.22 Definitions.

ACCESSORY SIGN

A sign relating in its subject matter to the premises upon which it is located or to the primary products, accommodations, services, or activities upon the premises.

ANIMATED SIGNS

A sign that uses movement, moving images or changes of lighting to depict action or create a special effect or scene.

AREA OF SIGN

The area of a sign shall be determined by measuring the area within the perimeter which forms the outside shape of display elements from the top of the highest display elements to the bottom of the lowest display elements and from exterior side to exterior side of display elements, including in such measurement any blank or open area between display elements. Display elements include any letters, words, trademarks, logos, and symbols. Any frame around the sign shall be included in the measurement, but the measurement shall not include any supporting structure or bracing. Any such measurement shall be taken on only one face of the sign, although informational or advertising matter may be displayed on both sides of any permitted sign.

BILLBOARD

A sign in excess of 200 square feet in area and located on a lot, building or roof but unrelated to a business or profession conducted, to a service offered or to a commodity sold upon the premises where such sign is located.

BUSINESS

A single store, office, research facility, manufacturing facility, or noncommercial establishment, or similar location for a single activity.

BUSINESS CENTER

A group of five or more businesses which collectively have a name different from the name of any of the individual businesses and which have common private parking and entrance facilities.

DIRECTORY SIGN

A sign which lists the tenants or occupants of a premises and may indicate respective professions.

FREESTANDING SIGN

A sign supported by uprights, braces, structures or supports that are placed on or anchored in the ground and that are independent from any building or other structure, including pole signs, ground signs and sandwich signs.

GROUND SIGN

A freestanding sign in contact with, or within six inches of, the ground surface.

HISTORIC SIGN

An accessory sign 50 or more years old that is structurally safe, or any other sign designated by an accredited historic association or governmental agency to have historical significance.

ILLUMINATED SIGN

A sign that has characters, letters, figures, designs, or outlines illuminated by electric lights or luminous tubes.

INCIDENTAL SIGN

An informational sign, no larger than two square feet, which has a purpose secondary to the use of the premises on which it is located, such as "loading only," "no parking," "entrance," "telephone," "credit cards accepted," "open," "closed," "back in one hour" and other similar directives.

INSPECTOR OF BUILDINGS

The duly appointed inspector of buildings for the Town of Ashburnham, local inspector, or any alternate inspector who meets the qualifications set forth in 780 C.M.R. § 107.3.

LOT

A single area of land in one ownership with definite boundaries as described on a recorded deed or recorded plan.

MARQUEE SIGN

A projecting sign attached to or hung from a marquee, canopy or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line or street line.

POLE SIGN

A freestanding sign elevated more than six inches above the ground surface by a supporting structure.

PORTABLE SIGN

A sign not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied force by means of its geometry or character, or a sign designed to be transported, including, but not limited to, posters, sandwich signs, temporary signs, balloons, flags used as signs, banners, streamers, pennants, umbrellas used for advertising, wheeled signs, signs on portable letter

boards, and signs mounted on, attached to or painted on vehicles parked and visible from a public right-of-way.

POSTER

A sign no more than eight square feet in area printed on cardboard, paper or other similar nondurable material and not permanently attached to the ground, a building or other permanent structure. Said sign shall include, but not be limited to, the advertising of goods and services that are weekly or monthly specials, or other types of temporary specials. Said signs shall comply with the setback provisions of section 5.23.9 herein.

PREMISES

A single residence, building or place of business.

PROJECTING SIGN

A sign attached directly to a building wall, and which extends more than 15 inches from the face of the wall, including, without limitation, so-called shingle signs, marquee signs and signs on canopies and awnings.

SANDWICH SIGNS

An A-frame, T-frame or menu sign.

SIGN

Any fabricated sign or outdoor display structure, including its structure, consisting of any letter, figure, character, mark, point, plane, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminating device, constructed, attached, erected, fastened or manufactured in any manner whatsoever so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever, and displayed in any manner to advertise, identify, or communicate information of any kind to the public. All such devices, fixtures, placards and structures visible from a public right-of-way, whether on the exterior or interior of a building, shall be considered signs.

STREET LINE

The boundary of the public right-of-way and private property, although the way may not have been constructed to its full width or although less than its full width is open or devoted to public travel.

TEMPORARY SIGN

A sign constructed of cloth, fabric, vinyl, paper, plywood, or other light temporary material not well suited to provide a durable substrate, with or without a structural frame, intended for a limited period of display and not permanently mounted, including a decoration display for holidays or public demonstrations, poster, other paper or cardboard sign, flag, banner, streamer, pennant, string of lights, or string of pennants.

WINDOW SIGN

A sign on exterior windowpanes of glass or placed inside an exterior window or mounted inside the window and intended to be visible from the exterior of the window.

5.23 General Regulations and Prohibitions

- 23.1 Abandoned signs. Any sign which has been abandoned or which advertises a business no longer conducted at the premises shall be removed within 30 days of abandonment or cessation of such business.
- 23.2 Accessory signs. Signs solely advertising brand names or products sold at the premises shall not be considered accessory signs, unless such brand name products constitute the majority of products sold at the premises.
- 23.3 Freestanding signs. The top of a freestanding sign shall not exceed in height the lesser of (a) 25 feet above grade or (b) five feet higher above grade than the distance from the base of the pole to the street line. A freestanding sign shall not be placed within five feet of the street line or lot line of the premises (or, if the distance between a building on the premises and the lot line or street line shall be less than 10 feet, 1/2 of such distance), nor within the setback required by the Zoning Bylaw, if any. If a pole sign shall be within 10 feet of a street line, it shall have a minimum clearance of 10 feet between grade and the bottom of the sign.
- 23.4 Illuminated signs. No sign shall be internally illuminated except "Open" signs displayed in the business and commercial districts during the hours such business or entity located on the premises is open. Such signs shall not exceed 3 square feet and may only employ lights emitting a constant intensity. No sign shall be illuminated by a flashing, intermittent, rotating, or moving light or lights.
- 23.5 Marquees. The changeable copy of marquee signs shall contain only advertising or information for current or upcoming events. Each marquee shall be constructed to meet the following requirements:
- a. It shall be equipped with gutters and conductors for the purpose of draining water toward the building to which it is attached, and shall not discharge ice, water or snow onto the street or the walk;
 - b. If such marquee shall be glazed, it shall be glazed with wire glass not less than 1/4 of an inch in thickness and be safely supported; and
 - c. It shall safely support its own weight plus a superimposed load of 30 pounds per square foot, equally distributed, in addition to any concentrated load to which it may be subjected.
- 23.6 Moving signs. Rotating signs, animated signs, rotating beacons, and otherwise moving signs shall be prohibited.
- 23.7 Number of signs. The total number of signs shall not exceed five per premises.
- 23.8 Pole signs. When calculating square feet of signs for purposes of maximum square footage allowed by this chapter, the actual square footage of pole signs shall be multiplied by 125%. Pole signs shall be limited to one per lot, regardless of the number of tenants. No pole sign shall be constructed within 50 feet of another pole sign.

- 23.9 Portable signs. Portable signs shall be prohibited, except (a) those painted or affixed to a duly registered motor vehicle, provided that such vehicle is not continuously parked in one location for a period in excess of two weeks and is used in the day-to-day operation of the business conducted at the premises at which such vehicle is parked, (b) temporary signs otherwise in compliance with this chapter, and (c) sandwich signs otherwise in compliance with this chapter and all regulations of the Department of Public Services.
- 23.10 Posters. Posters shall not be placed closer than five feet from the lot lines or street line (or, if the distance between a building on the premises and the lot line or street line shall be less than 10 feet, 1/2 of such distance) and are otherwise subject to the same restrictions as other temporary signs.
- 23.11 Projecting signs. Projecting signs (except those on marquees, canopies and awnings) shall not extend more than five feet over the public right-of-way. Marquee signs and projecting signs on canopies and awnings shall not extend more than eight feet over the public right-of-way. Projecting signs shall not be closer than three feet to the curb line. No portion of any projecting sign (or such marquee, canopy or awning on which it is located) shall be lower than 10 feet above grade. All canopies and awnings shall comply with other applicable bylaws and regulations.
- 23.12 Roof Signs. No sign shall be placed on a building above the eave line or gable, hip, or gambrel; above the parapet or eave on a flat or deck roof; on any part of or above the mansard portion of a mansard or French style roof; or on any part of or above the roof portion of an A-frame structure.
- 23.13 Sign posts. Sign posts and supports shall not contain lettering.
- 23.14 Signs for multiple businesses. Freestanding signs containing signs for more than one business in a commercial zone shall not exceed 80 square feet in the aggregate and shall only contain signs of consistent and uniform coloring, lighting, lettering and other characteristics.
- 23.15 Structural condition. All signs shall be maintained in a good repair, in good structural condition and in compliance with all building and electrical codes. No sign shall be erected so as to obstruct any door, window or fire escape.
- 23.16 Temporary signs. Temporary signs (other than posters) shall not be displayed for more than 60 continuous days. Posters shall not be displayed for more than 90 continuous days. If any premises shall have any temporary signs displayed for more than 90 days in any calendar year, all such signs at such premises shall not be considered temporary signs for the purposes of this chapter. Temporary signs, including posters, must be removed promptly when the event advertised is concluded.
- 23.17 Traffic sight lines. No sign shall be erected so as to constrict traffic sight lines for drivers or pedestrians. A freestanding sign shall not be placed within the triangle formed by connecting the point at the intersection of any street lines with the points on each street line 20 feet from such intersection.

- 23.18 Traffic signs. No sign, except as otherwise provided in this chapter, shall use the words “stop,” “danger,” or any other word, phrase, symbol, or character that might be misconstrued as a public safety warning or traffic sign.
- 23.19 Trees, etc. No sign shall be permitted on trees, light poles, telephone poles, or street identification signs.
- 23.20 Window signs. Window signs shall not exceed in aggregate square feet 60% of the total square footage of the window or glass door on which they are located.

5.24 Exemptions.

- 24.1 Flags. Governmental flags and governmental insignia, any other flag not in excess of 15 square feet.
- 24.2 For sale signs. “For Sale” or “For Rent” signs, not exceeding (a) eight square feet in aggregate area per premises in a nonresidential district or (b) six square feet in aggregate area per premises in a residential district and which advertise for sale or for rent only the premises upon which the sign is located. Sections 4.8 and 4.10 of this chapter shall also not apply to such signs. Such signs shall be removed promptly when the advertised sale or rental is concluded.
- 24.3 Historic signs.
- 24.4 Historical markers. Historical markers erected or placed by an accredited historical association or governmental agency.
- 24.5 Identifying signs. Signs which bear only house numbers, post box numbers, names of residents, or identification of premises and not exceeding two square feet in area per premises.
- 24.6 Incidental signs.
- 24.7 Information and directional signs. Informational, directional, traffic or warning signs erected or required by governmental agencies or bodies, including signs directing traffic to hospitals, parking areas, highways, cultural institutions and commercial areas.
- 24.8 Legal notices. Legal notices and identifications not exceeding two square feet in area, including “No Trespassing” and “No Hunting” signs.
- 24.9 Memorial signs. Memorial signs, plaques, or tablets.
- 24.10 Signs exempted by law with the exception of billboards. Signs described in M.G.L. c. 93, § 32.
- 24.11 Vending machine signs. Permanent signs on vending machines, gas pumps, ice containers or similar devices indicating only the contents of such devices.

5.25 Regulations Applicable to Specific Districts.

- 25.1 Districts. For the purpose of this chapter, the districts as established on the Town of Ashburnham Zoning Map, as amended from time to time, are hereby adopted by reference.
- 25.2 Signs permitted in residential districts with permits from the inspector of buildings and payment of a fee.
- a. Subdivision signs. One sign advertising any real estate development or subdivision.
 - b. Nonresidential use in residential district. One unlighted accessory sign per premises advertising a permitted nonresidential use in a residential district (other than permitted home occupations), not to exceed 12 square feet in area.
 - c. Up to two non-flashing signs, not to exceed six square feet in area per sign, pertaining to a permitted accessory use on the premises.
- 25.3 Signs permitted in business, industrial and commercial districts with permits from the inspector of buildings and payment of a fee.
- a. Sign limits. Each entity in a business or industrial district shall be allowed one or more accessory signs which shall not exceed 80 square feet in the aggregate, provided that a business with frontage on two or more streets shall be allowed an additional accessory sign or signs directed toward such additional street or streets which shall not exceed 50 additional square feet in the aggregate. Each entity in the Village Center Commercial district shall be allowed one or more accessory signs which shall not exceed 64 square feet in the aggregate, provided that a business with frontage on two or more streets shall be allowed an additional accessory sign or signs directed toward such additional street or streets which shall not exceed 32 additional square feet in the aggregate.
 - b. Frontage limits. The combined surface area of all signs on any premises in a business, industrial or commercial district shall not exceed four square feet in the aggregate per linear foot of frontage of the face of the building or of the lot on which such signs are located, whichever is greater.
 - c. Business center signs. In addition to other signs allowed to individual businesses, a business center shall be allowed one common accessory sign for each approved curb cut or driveway. Signs for any individual business on such common business center sign shall be consistent with the business center sign with uniform colorings, lighting, lettering and other characteristics.
 - d. Sandwich signs. Sandwich signs shall be allowed in business, industrial and commercial districts. Sandwich signs shall not exceed 12 square feet in area per sign and shall not exceed one square foot in the aggregate per lineal foot of frontage of the face of the building or of the lot on which such signs are located, whichever is greater. Sandwich signs must be within 15 feet of the advertised premises and must relate in subject matter to accommodations, services or activities upon the advertised premises.

- e. Projecting signs. Projecting signs shall be allowed in business and industrial districts only. Only one projecting sign shall be allowed per premises, and shall be allowed only instead of, not in addition to, any permitted freestanding signs. Projecting signs shall not exceed 15 square feet in area and shall not exceed one square foot of sign area per lineal foot of frontage of the face of the building or of the lot on which such sign is located, whichever is greater, except that marquee signs shall not exceed 50 square feet on each surface. No projecting signs shall be constructed within 30 feet of another projecting sign. Projecting signs shall require the posting of a bond as set forth in 5.26.3.
- f. "Open" flags. "Open" flags shall be allowed in business, industrial and commercial districts. One flag shall be allowed per premises, in good repair, no larger than six square feet in area, displayed only while the business conducted at the premises is open.

25.4 Signs permitted without a permit from the inspector of buildings. The following signs are allowed as provided below without a permit from the inspector of buildings, payment of a fee or posting of a bond.

- a. Home occupations. Home occupations located in a residential district, one accessory sign per premises not to exceed two square feet advertising a permitted home occupation.
- b. Directory signs.
- c. Entryway signs. Signs on an entryway to the Town, not to exceed either (a) one sign per entryway per organization/individual not to exceed two square feet in area each or (b) one sign per entryway for all organizations/individuals not to exceed 12 square feet in area; all such signs subject to applicable regulations of the Department of Public Works.
- d. Directional signs. Directional signs for the purpose of giving directions to a particular destination, not to exceed two square feet in area, and subject to applicable regulations of the Department of Public Works
- e. Temporary signs. Temporary signs not to exceed 12 square feet in aggregate area per premises in a residential district and not to exceed 50 square feet in aggregate area per premises in a nonresidential district.

5.26 Permit process.

- 26.1 Appeals. Any person aggrieved by reason of his inability to obtain a permit from the inspector of buildings and any person aggrieved by any order or decision of the inspector of buildings in violation of any provision of this bylaw or Chapter 40A of the General Laws, may appeal such decision to the Zoning Board of Appeals (ZBA) in accordance with the provisions for appeals set forth in Section 6.4 of these Zoning Bylaws, and Chapter 400A of the General Laws.

26.2 Applications. For all signs requiring a permit the owner of the premises (or owner's authorized agent) shall apply to the inspector of buildings for the issuance of a sign permit on such application form as shall be acceptable to the inspector of buildings. All applications shall indicate the size, location, lighting, building materials and specifications for each proposed sign. The inspector of buildings shall be responsible for the review of the application, issuance of the sign permit, and enforcement of the provisions of this chapter. The inspector of buildings shall act upon a completed sign application within 45 days of its receipt. Each permit issued under the provisions of this chapter shall continue in effect until the sign is removed or the sign permit is revoked, canceled or otherwise terminated. The granting of a sign permit shall not relieve the owner or operator from procuring any permit or license required by any other provision of law, including but not limited to applicable provisions of the town's bylaws.

26.3 Bonds. Projecting Signs require the posting of a bond with the inspector of buildings, satisfactory to the Town Counsel as to form, and in the penal sum hereinafter set forth, duly executed by the applicant and a surety company qualified to do business in the Commonwealth, conditioned to indemnify the Town against any and all claims (including the cost of a trial) for personal injuries, consequential damages, and death, or damage to property resulting from the placing, construction, or maintenance or removal of such sign, and further conditioned to pay all judgments obtained against the owner or operator of the premises upon or to which the sign is to be placed, or against any person subsequently becoming the owner or operator of such premises, or the owner of such sign, or liable for its proper maintenance, by reason of personal injuries or damage to property resulting from the placing, construction or maintenance or removal of such sign.

a. The penal sum of such bonds shall be as follows:

- i. For damage to property, \$100,000; and
- ii. For personal injuries, including consequential damages and death, \$1,000,000.

Such bond or one similar in effect and amount shall be maintained in force for each such sign as long as it is maintained or until permission is given by the inspector of buildings to release or discharge the same. The failure to maintain such bond in force shall automatically terminate the sign permit under which such sign was erected and maintained.

b. A liability insurance policy may be provided in place of such a bond, subject to the following requirements:

- i. Such a liability policy shall be issued by an insurer authorized to do business in the Commonwealth and evidenced by an insurance certificate which shall require that the certificate holders be notified in writing at least 30 days in advance of any cancellation or non-renewal of the policy;
- ii. The applicant shall annually furnish to the Town Certificate(s) of Insurance showing coverage as set forth above;

- iii. The Town of Ashburnham shall be named as an additional insured on the liability insurance policies and so identified on the Insurance Certificate(s); and
 - iv. The Certificate Holders shall be the Town Administrator and the Town Treasurer, 32 Main Street, Ashburnham, Massachusetts 01430.
- 26.4 Enforcement. The inspector of buildings is authorized to enforce the provisions of this bylaw and order the repair or removal of any sign and its supporting structure which, in the inspector's judgment, is dangerous, in disrepair or which is maintained contrary to this chapter. The owner of the premises shall be responsible for reimbursing the Town for all expenses of removing and disposing of any abandoned or dangerous sign or sign in disrepair or maintained contrary to this chapter.
- 26.5 Exceptions. Any person seeking a sign not in conformity with this chapter may request a Special Permit for an exception to this bylaw from the ZBA. The ZBA shall establish applications and written procedures as it deems necessary pursuant to Section 6.4 of these Zoning Bylaws.
- 26.6 Fees. Sign permit applications may be subject to a reasonable fee which shall be established by the inspector of buildings.
- 26.7 The ZBA may grant a Special Permit for an exception to this bylaw where compliance with the provisions contained herein pose practical difficulties or unnecessary hardships to the applicant:
- a. Where the board finds that compliance is impractical or poses a hardship, including an economic hardship or a design issue due to difficulties that are peculiar to the premises, the land or the building(s), the business or the person requesting the Special Permit, resulting from conditions which do not exist generally throughout the zoning district; and
 - b. Upon due consideration of any competing interests, the public benefits intended to be secured by this bylaw, the individual hardships that will be suffered by the failure of the ZBA to grant the Special Permit, and the compatibility of the proposed sign with its surroundings, including but not limited to abutting properties.
 - i. No demonstration of a hardship shall be required for a Special Permit for temporary signs in connection with conventions, celebrations, parades or other special events.

Provided that no Special Permit shall be granted that results in aggregate signage on one lot being 50% or more than any applicable aggregate limitation set forth elsewhere in this sign bylaw.

- 26.8 Transfer of ownership. Upon the sale or transfer of ownership of any sign, or business or premises to which a sign relates, the new owner shall file with the inspector of buildings a
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written application for the transfer of the sign permit for such sign. Such application shall be accompanied by a certification that such sign complies with the provisions of this chapter. Such sign permit shall be transferred by the inspector of buildings, subject to the filing of any necessary bond by the applicant.

5.27 Nonconforming signs.

A sign lawfully erected and in compliance prior to the effective date of this Section, and which fails to conform to the provisions of this Sign Bylaw may continue unless the use of such sign is abandoned or discontinued for one year or more, subject to the following:

- a. A nonconforming sign shall not be changed to another sign not in conformity with this chapter.
- b. A face replacement that involves any alteration to the face itself constitutes a change.
- c. A pre-existing nonconforming sign shall lose its nonconforming status if the owner of such premises changes the use of the land or any buildings thereon, changes the location of the sign, expands or extends any building(s) thereon, or changes the property line(s).
- d. A nonconforming sign shall not be maintained or reestablished after the activity, business, or usage to which it relates has been discontinued for 30 days.

5.28 Enforcement.

Violations of this bylaw shall be enforced by the inspector of buildings.

- a. Non-Criminal Disposition. In addition to enforcement procedures authorized elsewhere in this Zoning Bylaw or the General Laws, the provisions of this bylaw may be enforced by non-criminal complaint pursuant to the provisions of M.G.L. c. 40, § 21D.
- b. Penalties. Each day on which a violation exists shall be deemed a separate offense. The penalty for violation of any of the provisions of this sign bylaw shall be \$50 for the first offense; \$75 for the second offense; and \$100 for the third and each subsequent offense.

Nothing contained herein shall be deemed to require the use of non-criminal disposition, and at the option of the inspector of buildings, criminal and/or civil proceedings may also be utilized.

5.29 State Building Code.

To the extent that any conflict exists between the provisions of this bylaw and the applicable provision of the State Building Code, as it may be amended from time to time, the provisions of the State Building Code shall govern.